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CHAIRMAN
C. HUGH PATRICK, JR., 4TH DISTRICT
VICE-CHAIRMAN



COMMISSIONERS
ROBERT B. PEARLMAN, 1ST DISTRICT
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DR. D.H. DANIEL, 3RD DISTRICT
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GARY R. BAKER
EXECUTIVE DIRECTOR

State of South Carolina State Ethics Commission

NEWSLETTER

June 1985

No. 85-003



Members of the State Ethics Commission with Governor Riley — C. Hugh Patrick, Vice-Chairman; S. Anne Walker; Allen L. Ray, Chairman; Governor Riley; Gary R. Baker, Executive Director; Robert B. Pearlman; JoAnn Ray; Alice B. Shorter, Administrative Assistant; Dr. Clemmie Webber; and Dr. D.H. Daniel.

RAY, PEARLMAN PRESENTED ORDER OF PALMETTO

On May 15, Governor Richard Riley presented the Order of the Palmetto to Allen Ray and Bob Pearlman, recognizing them as Palmetto Gentlemen. Ray and Pearlman's terms expire the end of May and both have determined not to seek reappointment.

Ray, of Conway, has represented the Sixth Congressional District since 1981 and has served as Commission Chairman since 1982. He is an attorney, having graduated from USC and USC Law School. He is mar-

ried and has one son.

Pearlman is a tax attorney from Charleston, representing the First Congressional District since 1982. He is a graduate of Dartmouth College, the USC Law School and the College of William and Mary Law School. He is married and has one daughter.

Ray and Pearlman were also presented a resolution by the State Ethics Commission in recognition of their contributions to the work of the Commission.

DIGEST OF ADVISORY OPINIONS

SEC 85-027

March 20, 1985

**SUBJECT: (1) MAYOR'S BROTHER OR LAW FIRM REPRESENTING CLIENTS IN COURT CASES
(2) CITY RECORDER OR LAW PARTNERS REPRESENTING CLIENTS IN COURT CASES**

A Mayor's brother and his law firm would not be prohibited from representing clients on charges brought by the city in Municipal or General Sessions Court. A City Recorder and his law firm are advised against representation of clients on charges brought by the city in Municipal or General Sessions Court.

Requestor: Richard F. Ritch, Chief of Police
Entity: City of Hartsville

SEC 85-028

March 20, 1985

SUBJECT: RECEIPT OF HONORARIUM

The Chairman of the Commission on Higher Education is advised against acceptance of an honorarium for participating in a program of higher education, as this is prohibited by §8-13-430.

Requestor: Fred R. Sheheen, Chairman
Entity: Commission on Higher Education

SEC 85-030

May 15, 1985

SUBJECT: COMMUNITY MENTAL HEALTH CENTER BOARD MEMBER AS OPERATOR OF COMMUNITY CARE HOME

A potential Board member of a community mental health center, who is the operator of a community care home, would not be prohibited from serving on the Board. If appointed, he would be required to follow the disclosure and disqualification procedures of §8-13-460 on matters coming before the Board which would substantially affect directly his financial interests or those of the community care home.

Requestor: Kennerly M. McLendon
Entity: South Carolina Department of Mental Health

SEC 85-031

May 15, 1985

SUBJECT: FORMER DHEC EMPLOYEE ENGAGING IN RELATED EMPLOYMENT

A former Department of Health and Environmental Control employee is prohibited from conducting soil evaluations on specific sites which he had evaluated while an employee of that department. He may conduct soil evaluations utilizing a new technique on specific sites which he had not previously evaluated.

Requestor: David Popowski, Attorney at Law
Entity: Charleston, SC

SEC 85-032

May 15, 1985

SUBJECT: AIRPORT DISTRICT EMPLOYEE ORGANIZING TOURS

The State Ethics Commission has reconsidered Advisory Opinion 85-019 and determined that the Richland-Lexington Airport District is regulatory in nature and the acceptance of airline tickets by an airport employee for arrangement of group tours would be prohibited by §8-13-490.

Requestor: Clifford O. Koon, Jr., Attorney at Law
Entity: Richland-Lexington Airport District

SEC 85-033

May 15, 1985

SUBJECT: CITY COUNCILMAN BIDDING ON CITY CONTRACT

A City Councilman would not be prohibited from bidding on a contract to provide uniforms to the city, provided the City Councilman takes no part in any matters affecting the contract.

Requestor: Jim Forth, City Administrator
Entity: City of Greer

COMPLAINT ACTIONS

The State Ethics Commission publicly reprimanded two Loris City Councilmen for participating in council business affecting a bank with which both were associated. At a hearing held on May 15, the Commission determined that Thomas H. Brogdon and James R. Clarkson violated §8-13-460. The two councilmen participated in discussions and voted on the approval of an ordinance to fund a city waterworks and sewer project. The councilmen had a conflict since Clarkson is a Vice President and Brogdon's spouse is a teller at the Horry County National Bank. The Horry County National Bank was the only local bank to bid on providing the funds for the project. The State Ethics Act prohibits a public official from participating in a matter which will affect the financial interests of a business with which he is associated.

The City of Loris originally sought a loan from the Farmers Home Administration. However, it was determined to seek financing from local banks. In discussions with the Horry County National Bank, the City Council determined that it could save approximately \$241,000 by financing with the Horry County National Bank.

The State Ethics Commission also condemned the actions of Project H.E.L.P., a local community organization whose leader, Dr. Franklin Reaves, filed the complaint. The Commission expressed its grave concern over the release of confidential information to the news media by persons associated with Project H.E.L.P.

At the Commission's March 20 meeting, Joshua Matthews, School Board Chairman from Bowman School District was reprimanded for violations of the State Ethics Act. Matthews sold a tractor valued at \$4,000 to the school district. Matthews violated the State Ethics Act in participating in the decision to buy the tractor from himself, and also in failing to report the transaction on his Statement of Economic Interests for 1982.

The complaint against Matthews was filed by Larry Brown, a member of the Citizens of the Community, a local community organization.

PATRICK, WALKER ELECTED

Walker, and Dr. D.H. Daniel

C. Hugh Patrick, Jr. of Greenville was elected chairman and S. Anne Walker of Sumter was elected Vice Chairman of the Commission at its May 15 meeting. Patrick, the Commission Vice-Chairman, was elected to replace Allen Ray, who is not seeking reappointment. Walker replaces Patrick in the Vice-Chair position.

Patrick was appointed to the Commission by Governor Riley in June 1982. He is a native of Greenville and is the President of Pat Chem, Inc., a specialty textile chemical firm. A graduate of Clemson, he is married and the father of five sons. He has served as the Commission Vice-Chairman since July 1982.

Walker is the Assistant Dean of Continuing and Community Education at Sumter Area TEC. She is a graduate of Lander College and U.S.C., and is involved in pro-

fessional and civic organizations in the Columbia and Sumter areas. She is married and has one child. She was appointed to the Commission by Governor Riley in June 1983.

The two officers will serve two-year terms in their new positions.

CONDUCTING BUSINESS WITH PUBLIC AGENCIES

Public agencies may conduct business with public officeholders provided the officeholder does not participate in the procurement process. As long as the officeholder takes no official action and does not utilize the influence of his position, his business associations may contract with public agencies, including the agency with which he is involved.

Three separate code sections of the State Ethics Act prohibit any business dealings with public agencies in which the public officeholder has taken any official action. Official action includes, but is not limited to, decision, approval, disapproval, recommendation, rendering of advice, investigation, or other similar action.

The State Ethics Commission has advised in prior advisory opinions that a public officeholder who is required to take action on a matter which will affect his business interests to:

- (1) Provide a written statement describing the matter of potential conflict to his superior. In the case of an elected official, the statement should be provided to the presiding officer. If the presiding officer has the conflict, the statement shall be provided to the members or officials of the public agency. The statement shall be noted in the minutes of the meeting.
- (2) The person with the conflict shall absent himself from the meeting location or area where the matter is up for consideration to preclude any influence in the matter.
- (3) The person shall not participate in any way in the official action required to be taken by the office or agency.

The restrictions on participation include matters affecting any business with which the officeholder is associated. That includes any business in which the officeholder or any member of his household is an officer, owner, director, employee, or holder of stock worth ten thousand dollars or more at fair market value. It also includes any client of the officeholder. A member of the household includes the officeholder's spouse as well as any children occupying the same family residence.

The State Ethics Act also prohibits a public officeholder's participation in a procurement by a business with which he or a member of his household is negotiating concerning future employment.

Questions regarding the conduct of business with public agencies should be directed to the Commission office.

PERMIT NO. 143